

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

8:18CR315

vs.

DELONTA MCKNIGHT,

ORDER

Defendant.

This matter is before the Court on Defendant's Motion for Additional Discovery and *Daubert* Motion (Filing No. 57) and the Motion to Authorize Additional Expenditures (Filing No. 58). Defendant's counsel represents that Defendant agrees to the filing of these motions and understands the associated delay if they are granted. (Filing No. 57 at 3.)

Defendant requests additional discovery to determine whether the DNA evidence in this case is reliable and/or credible. The Court has reviewed the record, including the justification letter dated February 15, 2021, from Defendant's DNA expert (the "Justification Letter") (Filing No. 58-3), and concludes that the Motion for additional discovery should be granted. Defendant's Motion includes a request that the government be directed to turn over evidence listed in the Justification Letter, though it is unclear whether the government has refused to produce the evidence. Additional discovery time will permit the parties to confer about any evidence the government should disclose under Fed. R. Crim. P. 16(a).

Defendant also filed the *Daubert* motion as a "placeholder" that would need to later be amended. Presumably, Defendant filed a "placeholder" motion to meet the pretrial motion deadline of February 16, 2021, rather than seek an extension (see Filing No. 54

at 1). Counsel for Defendant has since suggested to the Court that even if a *Daubert* motion is not necessary, additional discovery is still needed to challenge the credibility of the DNA evidence at trial. Rather than leaving the Motion pending, the Court will deny the *Daubert* motion without prejudice to reassertion and will extend the discovery and pretrial motion deadlines by 90 days.

Defendant also seeks additional CJA funds to conduct relevant discovery on the DNA evidence. The Court has reviewed Defendant's motion and supporting materials, including the proposed budget and justification letter (see Filing Nos. 58-2 through 58-4), and concludes the Motion for Additional Funds should be granted. Accordingly,

IT IS ORDERED:

1. Defendant's Motion for Additional Discovery (Filing No. 57), is granted, consistent with this Order;
2. Defendant's placeholder motion in limine under *Daubert* is denied without prejudice to reassertion;
3. Unless extended by motion and order of the Court, the deadlines in the Order for the Progression of a Criminal Case (Filing No. 54) are amended as follows:
 - a. The discovery deadline is extended to July 13, 2021,
 - b. The pretrial motion deadline is extended to July 26, 2021,
 - c. The deadlines are otherwise unchanged;
4. Defendant's Motion for Additional Funds (Filing No. 58), is granted; and

5. Any additional delay arising as a result of granting Defendant's motions shall be deemed excludable in any computation of time under the requirements of the Speedy Trial Act.

Dated this 14th day of April, 2021.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge